

MEMORANDUM OF UNDERSTANDING
AMONG
THE MINISTER OF NATIONAL DEFENCE OF THE KINGDOM OF BELGIUM
AND
THE DEPARTMENT OF NATIONAL DEFENCE OF CANADA
AND
THE MINISTER OF DEFENCE OF THE KINGDOM OF DENMARK
AND
THE MINISTRY OF DEFENCE OF THE KINGDOM OF NORWAY
AND
THE DEPARTMENT OF DEFENSE OF
THE UNITED STATES OF AMERICA
CONCERNING
COOPERATION ON A
NATO TRANSATLANTIC ADVANCED RADAR PROJECT DEFINITION PHASE
DATE: 11 OCTOBER 2000

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INTRODUCTION

The Minister of National Defence of the Kingdom of Belgium, the Department of National Defence of Canada, the Minister of Defence of the Kingdom of Denmark, the Ministry of Defence of the Kingdom of Norway, and the Department of Defense of the United States of America, hereinafter referred to as the "Participants":

Having a common interest in Alliance Ground Surveillance;

Noting the NATO Staff Requirements (NSR) for an Alliance Ground Surveillance System, AC/259-D/1750 and AC/259(SURV)D/12, dated 7 October 1997;

Noting the Alliance Ground Surveillance (AGS) Concept Definition Study, Final Report, Air Segment Based on the US Advanced Radar Sensor, dated 4 February 1999;

Noting the Concept Definition Study for an Alliance Ground Surveillance (AGS) Core Capability, Addendum 3 (revised) to the Consolidated Report on the Responses to the April 1998 Tasking, AC/259 (SURV) WP/23 dated 1 April 1999.

Noting that the Conference of National Armaments Directors (CNAD) welcomed the intention of some nations, supporting the Norwegian proposal, to organize themselves to begin a project definition for a system to be offered as an option for a NATO-owned and operated core capability based on the US Radar Technology Insertion Program (RTIP) sensor and to determine technology sharing/transfer among those nations and noting that the offer to join the grouping remained open;

Desiring to improve their mutual conventional defense capabilities through the application of emerging technology; and

Having conducted studies, research, and exploratory development of the applications of various technologies, recognize the benefits of cooperation on AGS;

Have reached the following understandings:

SECTION 1

DEFINITIONS

The Participants have agreed upon the following definitions for terms used in this Memorandum of Understanding:

Classified Information	Official information and material that requires protection in the interests of national security and is so designated by the application of a security classification marking.
Common Fund	The fund established to hold financial contributions made by the Participants, and from which the Project Definition Office (PDO) Support Costs are paid.
Controlled Unclassified Information	Unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. Whether the information is provided or generated under this MOU, the information will be marked to identify its "in confidence" nature. It could include information which has been declassified, but remains controlled.
Cost Ceiling	The maximum amount of financial and non-financial contributions by the Participants to the PDO Support Cost.
Defense Purposes	Manufacture or other use in any part of the world by or for the armed forces of any Participant.
Designated Security Authority (DSA)	The security office approved by national authorities to be responsible for the security aspects of this MOU.
Financial Costs	Project costs met with monetary contributions.
Non-financial	Project costs met with non-monetary contributions (e.g., PDO Costs facilities, computers etc.).
Observers	Representatives from non-participating NATO nations or NATO bodies.

Participants	Any signatory to this MOU.
Project National	Man-year requirements (including salaries, per diem, and travel) associated
Work Package	with work assigned to a Participant in accordance with the Project Work Plan. These costs are not part of the PDO Support Costs.
Project Staffing Requirement	The maximum number of man-years the Participants will have to contribute to accomplish the objectives set out in Section 2, it comprises the PDO Resident Staff, Project Support Teams and Project National Work Packages.
Project Support Teams	Temporary teams composed of personnel from two or more Participants assigned to the PDO. Each Participant will contribute man-year requirements (including salaries, per diem, and travel) associated with work assigned to the Project Support Teams in accordance with the Project Work Plan. These costs are not part of the PDO Support Costs.
Project Background Information	Information not generated in the performance of the Project.
Project Definition	The process of thoroughly exploring all aspects of the proposed Project and to examine particularly the relations between required performances, development, time and cost based on the Norwegian Proposal, as described in AC/259-DS/65.
PDO Resident Staff	Man-year requirements (including salaries and relocation costs) contributed by the Participants to the PDO in Brussels. These costs are not part of the PDO Support Costs.
PDO Support Costs	Administrative and infrastructure costs, both Financial and Non-Financial, associated with the establishment and operation of the PDO, including travel and per diem for PDO Resident Staff.
Project Equipment	Any material, equipment, end item, subsystem, component, special tooling test equipment jointly acquired or provided for use in the Project.
Project Foreground Information	Information generated in the performance of the Project.

Project Information	Any information provided to, generated in, or used in this Project regardless of form or type, including, but not limited to, that of a scientific, technical, business, or financial nature, and also including photographs, reports, manuals, threat data, experimental data, test data, designs, specifications, processes, techniques, inventions, drawings, technical writings, sound recordings, pictorial representations, and other graphical presentations, whether in magnetic tape, computer memory, or any other form and whether or not subject to copyright, patent, or other legal protection.
Project Work Plan	A document that provides a description of the Project's delivery requirements, milestones, and resource allocations.
Third Party	A government other than the government of a Participant and any person or other entity whose government is not the government of a Participant.

SECTION 2

OBJECTIVES AND SCOPE OF WORK

2.1. The objectives of the NATO Transatlantic Advanced Radar Project Definition Phase, hereinafter referred to as "the Project", are to conduct a Project Definition (PD) for an Alliance Ground Surveillance system to be offered as an option for a NATO-owned and operated core capability, to be supplemented with interoperable national assets, based on the United States (US) Radar Technology Insertion Program (RTIP) sensor. During the PD Phase the Participants will define and document, as required, an affordable development and production program for a NATO owned and operated AGS core capability with acceptable technology and industrial sharing opportunities among the Participants. The Participants intend to complete the Project within two years of concluding the MOU.

2.2. To accomplish the objectives described above, the Participants will establish a Project Definition Office (PDO), consisting of Participant personnel assigned to the PDO Resident Staff, Project Support Teams and Project National Work Packages, which will develop and execute a Project Work Plan. The PDO will develop documentation that identifies the scope, cost, technical requirements, contracting plan and schedule for design and development of a NATO owned and operated AGS core capability. This documentation will include a proposed Memorandum of Understanding for acquisition of a NATO-owned and operated core capability, draft "Request for Proposal," to include air and ground configuration, and a Program Charter for the conduct of the acquisition phase. The documentation will enable a timely acquisition decision by interested NATO nations.

2.3. Participation in the Project does not constitute a commitment to proceed with the acquisition of a NATO owned and operated AGS core capability.

SECTION 3

MANAGEMENT (ORGANIZATION AND RESPONSIBILITY)

3.1. This Project will be directed and administered on behalf of the Participants by an organization consisting of a Management Board (MB) and a Project Definition Office headed by a Project Manager (PM). Working Groups consisting of national representatives will be established as necessary.

Management Board

3.2. The MB will consist of a voting representative appointed by each Participant. Representatives may be accompanied by any number of national experts. The MB will meet semi-annually with additional meetings held at the request of the Chairman. The Participants will elect by consensus a non-voting MB Chairman. Decisions of the MB will be made unanimously. In the event that the MB is unable to reach a timely decision on an issue, each MB representative will refer the issue to its higher authority for resolution. In the meantime, the approved Project Work Plan will continue to be implemented without interruption under the direction of the PM while the issue is being resolved by higher authority of the Participants.

3.3. The MB will be responsible for:

3.3.1. Exercising executive-level oversight of the Project.

3.3.2. Management authority over the PM, in accordance with this MOU.

3.3.3. Reviewing the financial status of the Project to ensure compliance with the provisions of Section 4 (Financial Arrangements) of this MOU.

3.3.4. Approving the Project Work Plan and reviewing progress of the Project against the Project Work Plan.

3.3.5. Resolving issues brought forth by the PM.

3.3.6. Reviewing and forwarding to the Participants for approval recommended amendments to this MOU in accordance with Section 18 (Amendment, Termination, Withdrawal, Entry Into Effect, and Duration).

3.3.7. Providing recommendations to the Participants for the addition of new Participants in accordance with Section 14 (Participation of Additional Nations).

3.3.8. Monitoring Third Party sales and transfers authorized in accordance with Section 11 (Third Party Sales and Transfers).

3.3.9. Approving plans to manage and control the transfer of Project Equipment provided by any Participant to support the execution of the Project in accordance with Section 6 (Project Equipment).

3.3.10. Approving plans for the disposal of jointly acquired Project Equipment under this MOU in accordance with Section 6 (Project Equipment).

3.3.11. Maintaining oversight of the security aspects of the Project, including reviewing and obtaining approval from the appropriate DSA of a Project Security Instruction and a Classification Guide prior to the transfer of a Classified Information or Controlled Unclassified Information.

3.3.12. Inviting Observers to attend MB or Working Group meetings.

3.3.13. Reporting to the Conference of National Armaments Directors (CNAD) on an annual basis and as otherwise required.

3.3.14. Approving the establishment of Working Groups (WGs).

3.3.15. The Management Board will establish a PDO and appoint a PM to head the PDO. The PDO will be staffed by the Participants.

3.3.16. Approving the Financial Management Procedures Document (FMPD).

Project Manager

3.4. The PM will be responsible for:

3.4.1. Directing the daily activities of the PDO Resident Staff.

3.4.2. Managing the cost, schedule, performance requirements, technical, and financial aspects of the Project described in this MOU.

3.4.3. Developing, for MB approval, and executing the approved Project Work Plan. The Project Work Plan will include a description of the work packages, including man-years of effort,

to be accomplished by the PDO Resident Staff, Project Support Teams and Project National Work Packages.

3.4.4. Developing and submitting any required changes to the approved Project Work Plan to the MB for approval.

3.4.5. Directing the activities of Project Support Teams and Project National Work Packages.

3.4.6. Referring issues to the MB that cannot be resolved by the PM.

3.4.7. Developing and recommending amendments to this MOU to the MB.

3.4.8. Developing and implementing MB-approved plans to manage and control the transfer of Project Equipment provided by a Participant in accordance with Section 6 (Project Equipment).

3.4.9. Developing and implementing MB-approved plans for the disposal of jointly acquired Project Equipment provided by a Participant(s) in accordance with Section 6 (Project Equipment).

3.4.10. Developing and forwarding to the MB a Project Security Instruction and a Classification Guide for the Project within three months after MOU signature, and implementing them upon final approval.

3.4.11. Reviewing and revising regularly the Classification Guide.

3.4.12. Providing a status report to the MB, which includes activities of the PDO Resident Staff, Project Support Teams and Project National Work Packages, as required.

3.4.13. Recommending Observer attendance at MB and Working Group meetings.

3.4.14. Developing and forwarding for approval to the MB, within one (1) month of MOU signature, a Financial Management Procedures Document (FMPD). Submitting to the MB for approval any required changes to the FMPD.

Working Groups

3.5. The WGs will be established, as required, and will include, at a minimum, a Technology sharing/transfer WG and an Interoperability WG. WG(s):

3.5.1. Will meet and report to the MB as required.

3.5.2. Will in principle have representation from all the Participants. The Chairman of a WG will be approved by the MB and will not represent a Participant.

3.5.3. May have Observers, as decided by the MB.

SECTION 4

FINANCIAL ARRANGEMENTS

4.1. The Participants estimate that the PDO Support Costs will not be more than a Cost Ceiling of 88,650,560BEF (US \$2,332,910). The BEF will be the reference currency for the Project. The Participants estimate the Project Staffing Requirement to be a maximum of thirty (30) man-years per-year. The Cost Ceiling and Project Staffing Requirement may be changed only upon amendment of the MOU. The Participants will use their best efforts to perform, or to have performed, the work specified in Section 2 (Objectives and Scope of Work) and fulfill all of the responsibilities under this MOU within the Cost Ceiling and the Project Staffing Requirement. If at any time the PM has reason to believe that the Cost Ceiling or Project Staffing Requirement of the Project will be exceeded, the PM will promptly notify the MB and will set forth a new estimate of the Project together with supporting documentation. The MB will direct the PM as to what action should be taken.

Cost Sharing

4.2. Participation in the Project will include contributions toward the PDO Support Costs and Project Staffing Requirement. Each Participant will contribute its equitable share in the form of financial and non-financial contributions of the full costs of the the Project, including overhead costs, administrative costs, and costs of claims (in accordance with Section 12, "Liability and Claims"), and will receive an equitable share of the results as set forth in this MOU. An equitable share means all of the results as set forth in the MOU. A Participant may satisfy its cost share of the PDO Support Costs by a financial contribution into a Common Fund or non-financial contribution as approved by the MB. A Participant may satisfy its share of Project Staffing Requirement by providing national personnel to: The PDO Resident Staff; Project Support Teams; and/or Project National Work Packages. A Participant may provide military, civilian or contracted personnel to satisfy its share of the Project Staffing Requirement. The full cost of the Project, including PDO Support Costs and Project Staffing Requirement as identified in this Section, will be shared according to the percentages below. The percentages are based on each Participants current NATO Security Investment Program (NSIP) share plus an equal share of the non-participating NATO members NSIP share.

<u>Participant</u>	<u>Percentage</u>
Belgium	16.746
Canada	16.245
Denmark	16.025
Norway	15.625
United States	35.359

4.3. The Participants recognize that all of their contributions to the PD Phase will be taken into account in a future acquisition phase.

4.4. The Participants recognize that it may become necessary, upon MB approval, for a Participant to incur contractual or other obligations for the benefit of the other Participants prior to receipt of the other Participants' funds. In the event that a Participant incurs such obligations, the other Participants will pay their equitable share of such obligations, make funds available in such amounts and at such times as may be required by the obligations, and pay their equitable share of any damages and costs that may accrue from the performance of or cancellation of the obligations in advance of the time such payments, damages, or costs are due.

4.5. Upon approval of the budget by the MB, the PDO and the NATO Office of the Financial Controller (OFC) will execute the budget in accordance with the rules of NATO's financial regulations "Part III." The PM will be held responsible to the MB for all financial executions. The NATO OFC will call for funds based on the approved budget and agreed cost share.

National Costs

4.6. The following costs will be borne entirely by the Participant incurring the costs or on whose behalf the costs are incurred:

4.6.1. Costs associated with national representation at meetings.

4.6.2. Costs associated with any unique national requirements identified by a Participant.

4.6.3. Any other costs not expressly stated as shared costs or any costs that are outside the scope of this MOU.

4.7. The PM will be responsible for establishing the detailed financial management procedures under which the Project will operate. These procedures will be detailed in a FMPD prepared by the PM and subject to the approval of the MB. Each Participant will pay into the Common Fund for the Project in accordance with the estimated schedule of financial contributions contained in the FMPD.

4.8. The responsibilities of the Participants will be subject to the availability of appropriated funds for such purposes. A Participant will promptly notify the other Participants if available funds are not adequate to fulfill its obligations under this MOU. If a Participant notifies the other Participants that it is terminating or reducing its funding for this Project, the Participants will immediately consult with a view toward continuation on a modified basis.

Auditing

4.9. The accounts of the PDO will be audited by the International Board of Auditors to NATO (IBAN) in accordance with its Charter (C-M(81)31, as revised) and the NATO Financial Regulations "Part III." The IBAN will offer the MB an opportunity to comment upon the observations of IBAN reports prior to submitting the reports to the North Atlantic Council. IBAN representatives may be present at the MB meeting when the audit report is to be discussed. The report to the North Atlantic Council shall include the IBAN position on the comments of the MB as appropriate.

4.10. The Participants will ensure their designated contracting agency will be responsible for the audit of the procurement activities for which it is responsible under the Project in accordance with its practices. The contracting agency will be responsible for the internal audit regarding administration of the other participants' Project funds in accordance with its practices. Audit reports of such funds will be promptly made available by the contracting agency to the other Participants.

SECTION 5

CONTRACTING PROVISIONS

5.1. If any Participant determines that contracting is necessary to fulfill that Participant's responsibilities of this MOU, that Participant will be solely responsible for its own contracting in accordance with its respective national laws, regulations and procedures and the other Participants will not be subject to any liability arising from such contracts without their prior written consent.

5.2. The PDO may make use of a Participant's designated contracting agency in the event that contracting on behalf of the other Participants is required to implement the Project. The Participants may make use of a NATO organization. The PDO will generate the statement(s) of work, and the contracting agency so used will place contracts in accordance with its respective regulations and procedures. To the extent that applicable procurement law allows, goods and services will, where practicable, be contracted from Participants' industries and competition will be maximized to the fullest extent possible. The Participant's contracting officer will be the exclusive source for providing contractual direction and instructions to the contractors.

5.3. Each designated contracting agency will insert into its prospective contracts (and require its contractors to insert in subcontracts) suitable provisions to satisfy the requirements of this MOU including, Section 7 (Disclosure and Use of Project Information), Section 8 (Controlled Unclassified Information), Section 10 (Security) and Section 11 (Third Party Sales and Transfers) of this MOU. Each designated contracting agency will negotiate to obtain the rights to use and disclose Project Information required by Section 7 (Disclosure and Use of Project Information). During the contracting process, each Participant will also advise prospective contractors of their obligation to immediately notify the designated contracting agency, before contract award, if they are subject to any license or MOU that will restrict their government's freedom to disclose information or permit its use, and to employ their best efforts not to enter into any new MOU or arrangement that will result in restrictions.

5.4. In the event the designated contracting agency is unable to secure adequate rights to use and disclose Project Information as required by Section 7 (Disclosure and Use of Project Information), or is notified by contractors or prospective contractors of any restrictions on the disclosure and use of Project Information, that designated contracting agency will refer the matter to the PDO who will submit it to the MB for resolution.

5.5. The PM will be accountable to the MB for all goods and services received. The PM will report to the MB all PDO workload contracted to industry and associated cost growth, schedule delays or performance problem. The Participating nations will have access to all contracted products and will have joint ownership of all goods received.

SECTION 6

PROJECT EQUIPMENT

6.1. Each Participant may provide Project Equipment identified as being necessary for executing the MOU to the receiving Participant(s). Project Equipment will remain the property of the providing Participant. A list of all Project Equipment provided by one Participant to the other receiving Participant(s) will be developed and maintained by the PM, and approved by the MB, in accordance with Section 3 (Management) prior to such transfers.

6.2. The receiving Participant(s) will maintain any such Project Equipment in good order, repair, and operable condition and return the items in as good condition as received, normal wear and tear excepted unless the providing Participant has authorized the Project Equipment to be expended or otherwise consumed in connection with the Project without reimbursement to the providing Participant. The receiving Participant(s) will pay the cost of damage (other than normal wear and tear) to or loss of Project Equipment.

6.3. The providing Participant will deliver Project Equipment to the receiving Participant(s) at a mutually agreed location. Possession of the Project Equipment will pass from the providing Participant to the receiving Participant at the time of receipt of the Project Equipment. Any further transportation is the responsibility of the receiving Participant(s).

6.4. All Project Equipment that is transferred will be used by the receiving Participant(s) only for the purposes of carrying out this MOU, unless otherwise consented to in writing by the providing Participant. In addition, in accordance with Section 11 (Third Party Sales and Transfers) Project Equipment will not be re-transferred to a Third Party without the prior written consent of the providing Participant.

6.5. Project Equipment transferred to the receiving Participant(s) under this MOU will be returned to the providing Participant prior or upon termination or expiration of this MOU.

6.6. Any Project Equipment which is jointly acquired on behalf of the Participants for use under this MOU will be disposed of during this Project or when the Project ceases, as agreed by the MB.

6.7. Disposal of jointly acquired equipment may include a transfer of the interest of one Participant in such Project Equipment to the other Participant, or the sale of such equipment to a Third Party in accordance with Section 11 (Third Party Sales and Transfers) of this MOU. The Participants will share the consideration from jointly acquired Project Equipment transferred or sold to a Third Party in the same ratio as costs are shared under this MOU.